IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 19TH OCTOBER 2006 / 27TH ASWINA 1928

Bail Appl..No. 6057 of 2006()

CRIME NO.77/2006 OF ANJUTHENGU POLICE STATION.

PETITIONERS/ACCUSED

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1. ASSANARU UMMAR, S/O.ASSANARU,
   NAYDAM HOUSE, ARIVALAM, VETTOOR P.O.,
   VARKALA.

2. AREETH SAJAD, S/O.AREETH,
   MAUNAN VILAKOM, ARIVALAM,
   VETTOOR P.O., VARKALA.

3. SUBAID M., S/O.MOHAMMED ABDULLA,
   THOUDAL HOUSE, PUTHIYAPAKA,
   VETTOOR P.O., VARKALA.

BY ADV. SRI.VAKKOM N.VIJAYAN
SMT.VINITHA PRASANNAN
SRI.P.ANIYAN
SMT.REENA.C.STEPHENSON
SRI.A.S.SACHIN

RESPONDENTS: STATE

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1. STATE OF KERALA,
   REP. BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
   ANJUTHENGU POLICE STATION,
   TRIVANDRUM DISTRICT.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M. JAMES, J.

Bail Application No. 6057 of 2006

Dated this the 19th October, 2006.

O R D E R

Petitioners were before this Court through B.A.No.5742/2006, under Section 438 Cr.P.C. The application was dismissed on 26.9.2006. The same petitioners are before this Court (although the name of the 3rd petitioner was differently stated in the earlier application), praying for a pre arrest order, in Crime No.77/2006 of Anjuthengu Police Station.

2. Originally, the offence alleged against the petitioenrs were under Sections 341, 323, 324 and 354 IPC, read with Section 34 IPC. During the investigation, Sections 405 and 307 were added. However, after further investigation, the Investigating Officer had deleted Sections 405 and 307 IPC, and instead, Sections 452 and 308 IPC, had been incorporated. Thus, the offence now alleged against the petitioners are under Sections 341, 323, 324, 354, 452 and 308 IPC, read with Section 34 IPC.

3. The prosecution brought to my notice, the injuries recorded by the Doctor during the hearing of the earlier bail application, basing on the wound certificate issued from the Medical College Hospital, Thiruvananthapuram, that there was irregular incised wound on the perineal region, 4 x 4 cm. with port at testis exposed. There was another incised wound on the left glutial region, 2 x 0.5 cm.

4. In the light of the discussions contained in B.A.No.5742/2006, as well as the arguments advanced by both sides in this application, I find that no substantial change of circumstances has been placed before me by both sides. Therefore, I am of the view that an order under Section 438 Cr.P.C. cannot be granted.

5. In my order dated 26.9.2006, I have stated that the petitioners may work out their remedies, as per the law. Therefore, if the petitioners surrender before the Investigating Officer, he shall proceed against the petitioners, according to the law.

J.M. JAMES,
JUDGE

nj.